

§ 1446.304

7 CFR Ch. XIV (1-1-06 Edition)

support advance, the warehouse operator, acting in behalf of the marketing association:

(1) Shall inquire of each producer as to whether any liens, other than a statutory peanut poundage quota lien, exist on peanuts offered for loan and shall note the response on form CCC-1041, Warehouse Receipt and Draft (A failure to make such an inquiry shall render the warehouseman liable for the amount of the lien to the extent of any loss to CCC);

(2) Shall advance to the producer the applicable loan value of such peanuts. However, if a lien exists, the loan advance draft, form CCC-1041, shall be made payable jointly to the producer and each known lienholder except in those cases in which a peanut poundage quota lien was attached, as provided in part 729 of this title before any other lien was recorded. In such case the peanut poundage quota lien shall be deducted from the proceeds and a draft may be issued for any remaining balance;

(3) Shall deduct from such advances any:

- (i) Marketing penalty;
- (ii) Marketing assessment as provided in part 729 of this title;
- (iii) Peanut poundage quota lien;
- (iv) Assessment or excise tax imposed by State law;
- (v) U.S. claim;
- (vi) Farm storage facility loan installment payment that is currently due to CCC; and
- (vii) Any other debt that is owed by such producer to a United States government agency.

(4) As applicable, shall transmit, in accordance with applicable instructions, such deducted amounts to the:

- (i) County FSA office;
- (ii) Applicable State agency; or
- (iii) CCC; and

(5) If such peanuts were produced in the Southwestern area, and upon the prior agreement of the producer, may deduct from such advance an amount approved by CCC, but not to exceed \$2.00 per net weight ton of peanuts, to be used in financing the marketing association's peanut related activities outside the price support program.

[56 FR 16230, Apr. 19, 1991, as amended at 58 FR 41626, Aug. 5, 1993]

§ 1446.304 Price support loans involving estates, trusts or minors.

(a) *Estates and trusts.* A receiver or trustee of an insolvent or bankrupt debtor's estate, an executor or administrator of a deceased person's estate, a guardian of an estate or of a ward or incompetent person, and trustees of a trust estate may be considered to represent the insolvent debtor, the deceased person, the ward or incompetent, and the beneficiaries of a trust, respectively, and the peanut production of the receiver, executor, administrator, guardian, or trustees attributable to the person represented shall be considered to be the production of the person represented. Loan documents executed by any such person shall be accepted by CCC only if they are valid, as determined by CCC, and such person has the authority to sign the applicable documents.

(b) *Eligibility of minors.* A minor who is otherwise an eligible producer shall be eligible for price support only if such minor meets one of the following requirements:

(1) The right of majority has been conferred on such minor by court proceedings or by statute; or

(2) A guardian has been appointed to manage such minor's property and the applicable price support documents are signed by the guardian; or

(3) An acceptable bond is furnished under which a surety acceptable to CCC guarantees to protect CCC from any loss for which the minor would be liable had such minor been an adult.

§ 1446.305 Additional peanuts ineligible for price support.

(a) *Marketing penalty.* A marketing penalty is due if additional peanuts are marketed or considered marketed in any manner other than:

(1) Through a price support loan at the additional loan rate; or

(2) Through purchase for crushing or export by a handler who, in accordance with this part, has an approved contract with the producer to purchase peanuts for such purpose.

(b) *Delivery to avoid penalty.* Notwithstanding the provisions in paragraph (a) of this section, a person who has produced additional peanuts may avoid a marketing penalty on such peanuts